

PROCEEDINGS OF THE COMMON COUNCIL  
IN REGULAR SESSION  
TUESDAY, SEPTEMBER 22 , 19 92

CITY OF FORT WAYNE, INDIANA  
JOURNAL OF THE PROCEEDINGS  
OF THE COMMON COUNCIL

THE COMMON COUNCIL OF THE CITY OF FORT WAYNE MET IN THE  
COUNCIL CHAMBERS Tuesday EVENING September 22 , 1992 ,  
IN Regular SESSION. PRESIDENT Thomas C. Henry  
IN THE CHAIR, COUNCIL ATTORNEY Stanley A. Levine , AND  
Sandra E. Kennedy CITY CLERK, AT THE DESK, PRESENT THE  
FOLLOWING MEMBERS \_\_\_\_\_ VIZ:

BRADBURY <u>P</u>	EDMONDS <u>P Present</u>	GiaQUINTA <u>P</u>
HENRY <u>P</u>	LONG _____	LUNSEY <u>P</u>
RAVINE <u>P</u>	SCHMIDT <u>P</u>	TALARICO <u>P</u>

ABSENT: \_\_\_\_\_

COUNCILMEMBER: \_\_\_\_\_  
\_\_\_\_\_

THE MINUTES OF THE LAST REGULAR Septemb er 8 , 1992  
\_\_\_\_\_, 19   ,

SPECIAL \_\_\_\_\_, 19   ,

SESSION HAVING BEEN DELIVERED TO THE COUNCIL, WERE, ON MOTION,  
APPROVED AND PUBLISHED.

THE COUNCIL THEN ADJOURNED

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of Fort Wayne, Indiana, and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings the Common Council of the City of Fort Wayne, Indiana, for its Regular Session, held on 22nd day of September, 19 92, that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 24th day of September, 19 92.

Sandra E. Kennedy  
City Clerk



# THE CITY OF FORT WAYNE



Paul Helmke  
Mayor

September 16, 1992

## COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the  
City of Fort Wayne  
City-County Building  
One Main Street  
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-06-80, amending Chapter 33 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. Z-92-08-07

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this  
16th day of September 1992.

Robert Hutner  
Secretary

/pb

CC: File

**FACT SHEET**

Z-92-08-07

BILL NUMBER

**Division of Community  
Development & Planning****BRIEF TITLE**

Zoning Map Amendment

**APPROVAL DEADLINE****REASON**

From R-1 to B-1-B

**DETAILS****Specific Location and/or Address**

700-800 Blk of W Washington Ctr Rd

**Reason for Project**

New Furniture Store

**Discussion (Including relationship to other Council actions)**17 August 1992 - Public Hearing

See Attached Minutes of Meeting

24 August 1992 - Business Meeting

Motion was made and seconded, to return the ordinance to the Common Council with a DO PASS recommendation with the following conditions:

1) Submitted a revised legal description that excludes the north fifty (50) feet of the parl from the rezoning, and

2) Entering a covenant with the Ludwig Park Neighborhood Association that addresses buffering and/or screening of future site development.

Motion carried.

**POSITIONS****RECOMMENDATIONS****Sponsor**

City Plan Commission

**Area Affected**

City Wide

Other Areas

**Applicants/  
Proponents**

**Applicant(s)**  
Ervin's La-Z-Boy Shoppe &  
Calvary Temple Church  
City Department

Other

**Opponents****Groups or Individuals**

Laurie Scharwz  
907 Wolverton Dr

**Basis of Opposition**

-would prefer property to  
remain residentially zoned, it  
is better for the area

**Staff  
Recommendation**
☒ For ☐ Against

Reason Against

**Board or  
Commission  
Recommendation****By**
☒ For ☐ Against  
☐ No Action Taken

☐ For with revisions to conditions  
(See Details column for conditions)

**CITY COUNCIL  
ACTIONS  
(For Council  
use only)**

☐ Pass ☐ Other  
☐ Pass (as amended) ☐ Hold  
☐ Council Sub. ☐ Do not pass

**DETAILS**

**POLICY/ PROGRAM IMPACT**

Policy or  
Program  
Change

☐

No

☐

Yes

Operational  
Impact  
Assessment

(This space for further discussion)

**Project Start**

**Date**

13 July 1992

**Projected Completion or Occupancy**

**Date**

16 September 1992

**Fact Sheet Prepared by**  
Patricia Biancaniello

**Date**

16 September 1992

**Reviewed by**

*[Signature]*

**Date**

16 SEPTEMBER 1992

**Reference or Case Number**

- a. Bill No. Z-92-08-07 - Change of Zone #521  
From RA to B-1-B  
700-800 Block of West Washington Ctr Road

Ed Beck, attorney, 1900 Lincoln Bank Tower, appeared before the Commission. Mr. Beck was representing Ervin Showcase La-Z-Boy Showcase Shops. He stated that the applicant seeks the rezoning to permit the development of a 22,500 square foot La-Z-Boy furniture gallery. He stated that Mr. Ervin has been the owner of the local La-Z-Boy franchise for 17 years. He stated that La-Z-Boy is a Fortune 500 company. He stated that it has established high quality standards for its franchises, which standards impose high standards on operations as well as the facilities used. He stated that La-Z-Boy must approve any construction or new development of a La-Z-Boy store. He stated that they have given preliminary approvals to this proposal. He stated that the current La-Z-Boy store employs approximately 9 employees and it is anticipated that if this rezoning is approved and the development proceeds, that there will be approximately 15 to 18 employees for the new and expanded facility. He stated that this particular plan calls for the development initially of the furniture gallery and would also call for potential future development to the area immediately east of the proposed building. He stated that this particular property is bounded by Rodenbeck Drive on the east, on the south by Washington Center Road, to the west there is a nursing home and to the west of that is the Calvary Temple development. He stated that as the Commission knows Washington Center Road has recently been or perhaps still is in the process of being 4-lane. He stated that with the 4-lane and with the expanded traffic capacity, that this particular property is extremely well suited to the commercial type development that is proposed here. He stated that to the south of Washington Center Road is virtually entirely commercial along that stretch of road from I-69 to Highway 3. He stated that the Comprehensive Plan calls for residential in that area. He stated that they believe that given the change in the character of that location out there, with the commercial development on the south and the expanded traffic flow given the 4-laneing of Washington Center Road, that the prospect of any residential development on this particular tract is remote, if not, non-existent. Mr. Beck stated that they felt that their proposed use for the land is the highest and best use. He stated that the proposed use would not significantly increase the traffic flow. He stated that the La-Z-Boy furniture store currently has approximately 20 to 25 customers on a daily basis. He stated that their hours are 10-9 Monday through Friday, 10-5 on Saturday and noon to 5 on Sunday. He stated that it would be anticipated that with the expansion that the traffic for this particular location would increase to approximately 50 cars per day over the entire expanse of time that the facility is open. He stated that its deliveries are limited to approximately 2 deliveries per day. He stated that they feel that the proposed development would be less intrusive than potential developments that would be permitted under the current RA zoning classification. He stated for example the current zoning allows a height of 35 feet per structure. He stated the proposed structure



would have a height of approximately 18 feet. He stated that the plan calls for a buffer from the adjacent residential property. He stated that they are prepared to amend their petition to reduce the amount of land being sought for rezoning along the north boundary line. He stated they would leave that residential and help to provide a further buffer and eliminate the possibility of future commercial development along that property line. He stated the exact amount of land would be subject to discussion with the staff and also discussions with the neighborhood association. He stated that the staff has indicated that they feel one of the problems with this rezoning will be that there are too many potential uses that would be permitted in the B-1-B zoning classification that would be intrusive upon the residential character of the neighborhood. He stated that they have spoken with the president of the Ludwig Park Neighborhood Association and they have discussed with them the possibility of entering into an agreement with the Association, whereby they would agree to restrict the uses. He stated that they would place the restriction on the property and it would be binding with any subsequent landowners. He stated that they would restrict the uses to something that would be compatible with the residential character to the north and also would be in keeping, they believe, with the concerns that have been raised by the staff. He stated that they believe that such a proposal has precedence, that there have been other incidents in which such agreements have been entered into. He stated that this would permit the residential landowners, to control to a certain extent, by virtue of the agreement, the uses to which that property could be placed. He stated that they have spoken with the President and Vice-President of the Ludwig Park Association and discussed their plans with them, and they have indicated to them that the Association does not oppose the rezoning request. He stated that they have stated a willingness to meet with them to discuss an agreement that could be worked out that would further restrict the uses to which the property could be used and also to discuss the potential additional buffering along the north edge. He stated that they believe they can work with the Association and alleviate both their concerns as well as the concerns that have been expressed by the staff and arrive at a mutually agreeable arrangement, which will recognize the competing interests of promoting business and jobs for this community and also to preserve the integrity of the residential neighborhoods.

Steve Ervin, 1909 Dominion Drive, the petitioner and owner of La-Z-Boy franchise appeared before the Commission. Mr. Ervin stated that he had been the holder of the franchise in Fort Wayne for 17 years. He stated that prior to that he was involved in the family furniture business. He stated that they intend to be a good commercial neighbor. He stated that the site has to be approved by La-Z-Boy. He stated that all of the stores are done in a quality manner and everyone is well landscaped. He stated that the cost of the new structure is anticipated to be about \$1,000,000. He stated that the difference between the store he now has and the one he wants to build is that they are now a very localized store. He stated that they depend almost solely on business from Allen

County. He stated that the new operation, they would hope, would pull business from about a 65 mile radius of the store. He stated that is why it is very important for them to be near an interstate. He stated that they will work with the Neighborhood Association to assure them that they will not become an eyesore to them. He stated that they will have parking for only 22 cars. He stated they feel their use will be a very unobtrusive use of the land.

Laurie Scharwz, 907 Wolverton Dr, appeared before the Commission. She stated that their property was adjacent to the proposed development. She stated that she had spoken with the Neighborhood Association President on Saturday and was informed that this project had been dropped. She stated she would prefer the property remain zoned residentially. She stated that the President of the Association felt the zoning would be changed and felt that this request was the best of all evils. She stated that she was opposed to the rezoning.

Robert Wright requested that the staff explain their reasoning behind the recommendation of do not pass.

Wayne O'Brien, Planner II with C&ED, stated that he felt the planning staff discussion was rather concise in setting forth the reasons that they recommended a do not pass. He stated that the Plan Commission is unable to rezone the property to B1B for only a certain amount of limited uses. He stated that to rezone the property to B1B means anyone of approximately 90 uses could go in there. He stated that those uses would be beyond the Commission's control. He stated that they do not look at what the intended use is, they look at the zoning classification itself and all that it could entail. He stated that they see the highest and best use of this property in some type of transitional development. Whether that would be another nursing home, some type of multi-family residential development or even possibly a professional office district, that is what they would recommend to be appropriate as opposed to a commercial rezoning.

Robert Wright asked if there was anything that was brought up by the developer that would change that.

Mr. O'Brien stated that they sympathize with the concerns of the developer and fully believe the developer would be a good neighbor. Unfortunately they could not recommend the Commission in anyway endorse what is known as "contract zoning".

Greg Purcell, Executive Director of C&ED, stated that the scaling down of the property may have some impact on the Commission's ultimate decision. He stated that while the city cannot engage in contract zoning, if there were a private covenant between the landowners and the developer, the city would not honor it, nor would they be a party to it, but they could at least acknowledge it. He stated that if that was something that the Commission would like to see, and it might have some impact on the Commission's decision, but not the staff recommendation, it might be a good idea



for the attorney for the developer to scale back the territory and provide some landscaping and restrictive covenants with the property owners.

Robert Wright stated that the petitioner has indicated that the Neighborhood Association supports this request and questioned if there was any documentation to support that statement.

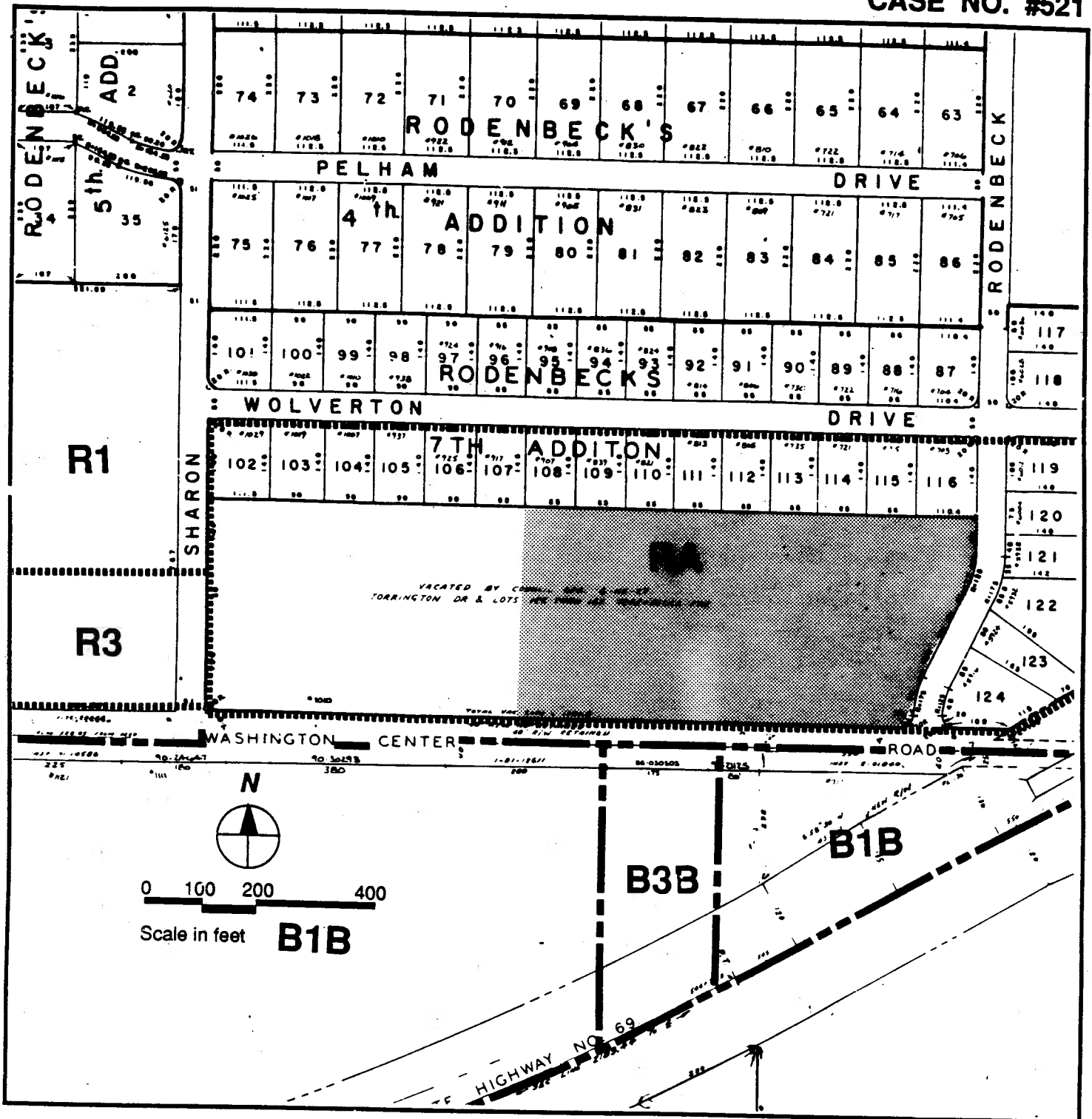
Mr. O'Brien stated that they had spoken with two different officers of the Association and both have indicated that they feel that this is the best of all evils. He stated they feel the area will go commercial and they seem to be trying to "cut their losses", and they do feel sympathetic to the development that is before the Commission tonight.

There was no one else present who spoke in favor of or in opposition to the proposed rezoning.

# REZONING PETITION

## AREA MAP

CASE NO. #521



COUNCILMANIC DISTRICT NO. 3

Map No. L-38  
LW 7-24-92

R1	One-Family	B1	Limited Business	M1	Light Industrial
R2	Two-Family	B2	Planned Shopping Center	M2	General Industrial
R3	Multi-Family	B3	General Business	M3	Heavy Industrial
RA/RB	Residential	B4	Roadside Business	MHP	Mobile Home Park
PUD	Planned Unit Dev.	POD	Professional Office District		

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on August 11, 1992 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-92-08-07; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on August 17, 1992.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

(1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;

(3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

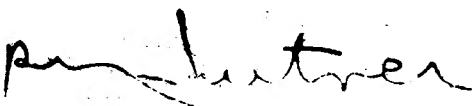
(4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,

(5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held August 24, 1992.

Certified and signed this  
16th day of September 1992.

  
\_\_\_\_\_  
Robert Hutner  
Secretary

**Ervin's LA-Z-Boy Showcase Shoppe, Inc. and Calvary Temple Church, Inc. request a change of zone from RA to B-1-B.**

Location: 700-800 Block of Washington Center Road

Legal: See File

Land Area: Approximately 6.0 acres

Zoning: RA

Surroundings:	North	RA/R1	Single Family Residential
	South	B1B/B3B	Commercial
	East	RA/R1	Open
	West	RA	Nursing Home

Reason for Request: Furniture store

Neighborhood Assoc.: Ludwig Park Association

Comprehensive Plan: The general land use policies of the comprehensive plan states that development proposals should be compatible with existing and planned land uses and should not establish an undesirable precedent in the area to be developed.

This project is located within the North Sector of the Outer Ring. The goal of the Outer Ring is to encourage growth in a balanced manner that is within or adjacent to existing development in the urban service area.

The North Sector is primarily suited for residential development. All of the existing commercial development is presently located south of Washington Center Road. Washington Center Road serves as a buffer between commercial uses to its south and residential uses to its north. To allow commercial development north of Washington Center Road would lack compatibility with the residential uses to the north.

Neighborhood Plan: No comment.

Landscape: B-1-B uses on this site are not inappropriate as long as a substantial view and noise buffer is created between the use and the residential area to the north. Z-10 requirements only require a 6' screen between parking and adjacent residential zoned sites.

### Planning Staff Discussion:

This property is located on the north side of Washington Center Road, east of Lima Road. Properties located on the south side of the road have been developed commercially, while the north side has been reserved for residential and other non-commercial development. Existing uses on the north side include a church and a nursing home.

Staff has always been concerned with the preservation of residential integrity. The Ludwig Park area has been a concern for a number of years due to the proximity of Lima Road, and the airport. However, staff has felt that the north side of Washington Center Road could be developed as a transitional zoning, adding buffering and other mitigation efforts which would help preserve the residential development to the north.

The requested B-1-B designation could allow up to 90 different uses which could have severe impacts on these residential properties. Buildings could be erected within twenty feet of the rear lot line, and parking could be constructed in that setback area. Potential uses could include many facilities which could generate negative noise and views, while severely increasing traffic.

Staff suggests that it would be better to preserve this area for uses that can be used to create a buffer or transitional zone. Some of the possible uses may include additional nursing homes, mortuaries, or Professional Office Districts. The existing zoning classification could permit some of these uses with appropriate site plans. The requested zoning would not allow the same degree of control over the actual site plan issues.

This corridor is extremely important to future growth. Major traffic improvements are currently underway. These traffic improvements will alleviate some of the traffic concerns that already exist. But future growth indicates that Washington Center Road will continue to be used by increasing volumes of traffic. While the Plan Commission needs to be responsive to the needs of the business community, it also needs to preserve established residential areas. Fortunately, this often means allowing some transitional zoning which can be used to address both needs.

Recommendation: Do Not Pass for the following reasons:

- 1) To allow commercial development north of Washington Center Road would lack compatibility with the residential uses to the north.
- 2) Approval would not allow the creation of buffer elements which could mitigate negative impacts.
- 3) The requested zoning would exceed the projected highest or best use of the parcel. The area would be better served by allowing transitional developments.